

**Filed 1/12/11 by Clerk of Supreme Court  
IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

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2011 ND 9

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In the Matter of T.O.

State of North Dakota,

Plaintiff and Appellee

v.

T.O.,

Defendant and Appellant

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No. 20100270

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Appeal from the District Court of Morton County, South Central Judicial District, the Honorable Thomas J. Schneider, Judge.

REVERSED AND REMANDED.

Opinion of the Court by Crothers, Justice.

Brian David Grosinger, Assistant State's Attorney, 210 2nd Avenue Northwest, Mandan, N.D. 58554, for plaintiff and appellee.

Justin Jacob Vinje, P.O. Box 4031, Bismarck, N.D. 58502, for defendant and appellant.

**Matter of T.O.**  
**No. 20100270**

**Crothers, Justice.**

[¶1] T.O. appeals from a district court order finding he remains a sexually dangerous individual and continuing his civil commitment in the care, custody, and control of the executive director of the department of human services. We reverse and remand because the district court did not make sufficient findings to permit effective appellate review.

I

[¶2] In 2005, T.O. was civilly committed as a sexually dangerous individual. In February 2010, he filed a petition for discharge to review his status as a sexually dangerous individual. T.O. submitted to psychological examinations by a state expert and an independent expert. The state expert concluded T.O. remained a sexually dangerous individual, while the independent expert concluded T.O. does not meet the statutory definition of a sexually dangerous individual. In August 2010, the district court held a hearing and received evidence, including testimony and reports from both experts. After the hearing, the court issued an order stating:

“Based on the Court’s file, testimony and reports, the Court finds by clear and convincing evidence that the Respondent [T.O.] remains a sexually dangerous individual and shall remain in the care, custody and control of the executive director of the Department of Human Services.”

II

[¶3] T.O. argues the district court’s order does not comply with N.D.R.Civ.P. 52(a) and the order should be reversed without remand under this Court’s decision in Madison v. North Dakota Dep’t of Transp., 503 N.W.2d 243, 246-47 (N.D. 1993), which authorized reversal of a decision in favor of the government for a “systemic disregard of law.” The State argues evidence in the record supports the district court’s order and the order for continuing commitment should be summarily affirmed.

[¶4] In In re R.A.S., this Court explained what constitutes sufficient findings for civil commitment decisions:

“Conclusory, general findings do not comply with N.D.R.Civ.P. 52(a), and a finding of fact that merely states a party has failed in [or has sustained] its burden of proof is inadequate under the rule. The court must specifically state the facts upon which its ultimate conclusion is based on. The purpose of the rule is to provide the appellate court with an understanding of the factual issues and the basis of the district court’s decision. Because this Court defers to a district court’s choice between two permissible views of the evidence and the district court decides issues of credibility, detailed findings are particularly important when there is conflicting or disputed evidence. This Court cannot review a district court’s decision when the court does not provide any indication of the evidentiary and theoretical basis for its decision because we are left to speculate what evidence was considered and whether the law was properly applied. The court errs as a matter of law when it does not make the required findings.”

2008 ND 185, ¶ 8, 756 N.W.2d 771 (quotation and citations omitted). “Detailed findings, including credibility determinations and references to evidence the court relied on in making its decision, inform the committed individual and this Court of the evidentiary basis for the court's decision.” Id. at ¶ 9 (citing In re J.S., 2001 ND 10, ¶ 9, 621 N.W.2d 582).

[¶5] As in R.A.S., the district court’s findings here do not provide the factual basis for the district court’s decision that T.O. remains a sexually dangerous individual. The court therefore did not comply with N.D.R.Civ.P. 52(a). We decline T.O.’s request to apply the rationale of Madison to this case. We reverse and remand for the sufficient findings of fact based on the record before the district court.

### III

[¶6] We reverse the district court order and remand to the court for the preparation of sufficient findings of fact on the record made at the August 2010 hearing.

[¶7] Daniel J. Crothers  
Mary Muehlen Maring  
Carol Ronning Kapsner  
Dale V. Sandstrom  
Gerald W. VandeWalle, C.J.